

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed

#### Rule making related to mental health institutes and resource centers

The Human Services Department hereby amends Chapter 28, “Policies for Mental Health Institutes and Resource Centers,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 218.4 and 222.6.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 218.4 and 222.6.

#### *Purpose and Summary*

The Department is updating rules in Chapter 28 to align with current practices and eliminate outdated terminology. This is part of the Department’s five-year rules review process required under Iowa Code section 17A.7(2).

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 9, 2022, as **ARC 6232C**. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on May 12, 2022.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

#### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

#### *Effective Date*

This rule making will become effective on August 1, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—28.1(218)**, definitions of “Catchment area,” “Informed consent” and “Superintendent,” as follows:

“*Catchment area*” means the group of counties, designated by the division administrator, that each ~~mental health institute or state resource center~~ is assigned to serve.

“*Informed consent*” means an agreement by an individual or by the individual’s parent, guardian, or legal representative to participate in an activity based upon an understanding of all of the following:

1. A full explanation of the procedures to be followed, including an identification of those that are experimental.
2. A description of the ~~attendant~~ discomforts and risks.
3. A description of the benefits to be expected.
4. A disclosure of appropriate alternative procedures that would be advantageous for the individual.
5. Assurance that consent is given freely and voluntarily without fear of retribution or withdrawal of services.

“*Superintendent*” means the superintendent of any of the ~~four~~ two mental health institutes and the two state resource centers.

ITEM 2. Rescind the definitions of “Central point of coordination process,” “Family contact” and “Official designated agent” in rule **441—28.1(218)**.

ITEM 3. Amend rule 441—28.2(218,222) as follows:

**441—28.2(218,222) Selection of facility.** Application for voluntary admission to a resource center shall be made to the facility in the catchment area within which the individual for whom admission is sought has a county of residence. The individual may be admitted to a state resource center in another catchment area if that facility has a more suitable opening.

~~**28.2(1)** Application for voluntary admission to a state mental health institute or resource center shall be made to the facility in the catchment area, as defined in rule 441—29.1(218) or 441—30.1(218,222), within which the individual for whom admission is sought has a county of residence.~~

~~**28.2(2)** Court commitment of an individual shall be made:~~

- ~~*a.* To the facility in the catchment area, as defined in rule 441—29.1(218) or 441—30.1(218,222), within which the individual who is being committed has a county of residence; or~~
- ~~*b.* As designated by the division administrator.~~

~~**28.2(3)** The division administrator shall consider granting exceptions to the established catchment areas when requested by the individual seeking a voluntary admission or by the committing court. The division administrator’s decision shall be made within 48 hours of receipt of the request. The decision shall be based on:~~

- ~~*a.* The clinical needs of the individual;~~
  - ~~*b.* The availability of appropriate program services;~~
  - ~~*c.* Available bed space within the program at the requested facility; and~~
  - ~~*d.* The consent of the superintendents of both facilities involved.~~
- ~~This rule is intended to implement Iowa Code sections 218.19, and 218.20, and 222.6.~~

ITEM 4. Adopt the following **new** implementation sentence in rule **441—28.7(218)**:  
This rule is intended to implement Iowa Code chapter 218.

[Filed 5/13/22, effective 8/1/22]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/15/22.